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Hollingsworth & Funk 8500 Normandale Lake Blvd., Suite 320 Minneapolis, MN 55437			BASIT, ABDUL	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/586,771	NYSTROM ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	ABDUL BASIT	3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 23 October 2009.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-23, 28 and 29 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-23, 28 and 29 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____ .	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

This action is in response to Applicant's remarks and amendments received on 10/23/09. The claim objections, some of the 35 U.S.C. 112, and the 35 U.S.C. 101 rejections are withdrawn.

Because Applicant has amended the claims, this has necessitated a new search; and as a result of the new search, a new rejection is given on claims 1-23 and new claims 27-28. Thus, a final rejection on the merits is issued.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 11 is still rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 is an apparatus claim and claim 1 is a method claim. An apparatus claim cannot depend from a method claim. Claim 11 may be rewritten to include the steps of claim 1, and become an independent claim. See MPEP 2173.05(p).

The BPAI decision cited by the Applicant was for independent claims that were computer readable storage medium that incorporated method steps. This is in contrast to the Applicant's claim which is an apparatus claim that depends from a method claim.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Fuzell-Casey (US Pat. Pub. No. 2004/0039661).

**Response to Applicant's Remarks and Amendments**

Applicant asserts that the Fuzell-Casey reference does not disclose “providing the selected data record by a radio frequency communication module for being wirelessly retrievable through radio frequency identification interrogation.” Based on an analysis of the reference, the Office respectfully disagrees with the Applicant’s assertion. Paragraph 28 indicates the use of radio waves within the wireless functions of the Fuzell-Casey reference.

**Regarding claim 1:**

Fuzell-Casey teaches a method comprising:  
receiving at an apparatus, context information from an external source; (see at least Fig. 2, paragraphs 24-29)  
selecting, at said apparatus, a data record out of a plurality of data records, wherein said plurality of data records are maintained for selecting; wherein said selecting of said

data record is performed in accordance with said context information; (see at least *Fig. 2, paragraphs 24-29*)

supplying said selected data record to a radio frequency identification communication module within said apparatus; and providing said selected data record as an identification information by said radio frequency identification communication module for being retrievable wirelessly by an external entity through radio frequency identification interrogation. (see at least *Fig. 2, paragraphs 24-29*)

**Regarding claim 2:**

Fuzell-Casey teaches a method according to claim 1, comprising scanning an environment of said apparatus to determine a presence of said external source. (see at least *Fig. 2, paragraphs 24-29*)

**Regarding claim 3:**

Fuzell-Casey teaches a method according to claim 1 comprising analyzing at said apparatus said received context information for selecting said data record. (see at least *Fig. 2, paragraphs 24-29*)

**Regarding claim 4:**

Fuzell-Casey teaches a method according to claim 3, wherein said analyzing comprises at least one operation out of said operations including at least: extracting at said apparatus, from said received context information one or more commands instructing to select said data record; (see at least *Fig. 2, paragraphs 24-29*) extracting at said apparatus an information item from said context information to be

compared with data items comprised by said data records in order to allow for selecting said data record; (*see at least Fig. 2, paragraphs 24-29*) and extracting at said apparatus an information item from said context information to be compared with association information in order to allow for selecting said data record. (*see at least Fig. 2, paragraphs 24-29*)

**Regarding claim 5:**

Fuzell-Casey teaches a method according to claim 1 wherein each of said data records relates to at least one out of a group including at least payment related information, loyalty card related information, credit card related information, a debit card related information, a prepaid card related information, a coupon related information, a voucher related information and electronic ticket related information. (*see at least Fig. 2, paragraphs 24-29*)

**Regarding claim 6:**

Fuzell-Casey teaches a method according to claim 1 wherein said supplying of said selected data record to said radio frequency identification communication module further comprises:

configuring, at said apparatus, said radio frequency identification communication module with said selected data record for providing said selected data record by said radio frequency identification communication module provided as said identification information. (*see at least Fig. 2, paragraphs 24-29*)

**Regarding claim 7:**

Fuzell-Casey teaches a method according to claim 1 wherein said providing of said selected data record by said radio frequency identification communication module allows for wirelessly retrieving by a corresponding external counterpart radio frequency identification communication module of said external entity. (see at least *Fig. 2, paragraphs 24-29*)

**Regarding claim 8: Canceled**

**Regarding claim 9:**

Fuzell-Casey teaches a method according to claim 1 comprising: revoking at said apparatus said provision of said selected data record in consequence of at least one operation out of a set of operations including: running down at said apparatus a predefined interval in time; (see at least *Fig. 2, paragraphs 24-29*) exceeding at said apparatus a predefined moment in time; (see at least *Fig. 2, paragraphs 24-29*) and detecting at said apparatus whether said external entity has retrieved said selected data record provided as identification from said radio frequency identification communication module. (see at least *Fig. 2, paragraphs 24-29*)

**Regarding claim 10:**

Fuzell-Casey teaches a method according to claim 1 wherein said radio frequency identification means communication module is operable with a reader mode and a transponder mode, said method further comprising

operating said radio frequency identification communication module in said reader mode for said acquisition of said context information; (*see at least Fig. 2, paragraphs 24-29*) and

operating said radio frequency identification communication module in said transponder mode for provision of said selected data record. (*see at least Fig. 2, paragraphs 24-29*)

**Regarding claim 11:**

Fuzell-Casey teaches a computer-readable medium having computer-executable program code sections stored thereon Computer program product for carrying out the steps of claim 1 when said program code sections are-is run on a computer, a microprocessor based device, a terminal, a network device, a mobile terminal or a mobile communication enabled terminal. (*see at least Fig. 2, paragraphs 24-29*)

12. (Cancelled)

13. (Cancelled)

**Regarding claim 14: Canceled**

**Regarding claim 15:**

Fuzell-Casey teaches an apparatus comprising:  
radio frequency for receiving context information from an external source; (*see at least Fig. 2, paragraphs 24-29*)

selection means configured for selecting a data record out of a plurality of data records, wherein said plurality of data record is maintained by the apparatus for selection, wherein said selecting of said data record is operable in accordance with said context

information; (see at least *Fig. 2, paragraphs 24-29*) and configuration means configured for supplying said selected data record to a radio frequency identification communication module within said apparatus; (see at least *Fig. 2, paragraphs 24-29*) wherein said radio frequency identification communication module is configured for providing said selected data record as an identification information for being wirelessly retrievable by an external entity through radio frequency identification interrogation. (see at least *Fig. 2, paragraphs 24-29*)

**Regarding claim 16:**

Fuzell-Casey teaches an apparatus according to claim 15, wherein said radio frequency interface is further configured for scanning an environment of said apparatus in order to determine a presence of said external source. (see at least *Fig. 2, paragraphs 24-29*)

**Regarding claim 17:**

Fuzell-Casey teaches an apparatus according to claim 15 wherein said radio frequency identification communication module is coupled electrically or wirelessly to said apparatus at least for a time.

**Regarding claim 18:**

Fuzell-Casey teaches an apparatus according to claim 15 comprising: analysis means configured for analyzing said received context information wherein said apparatus further comprises at least one means out of: extraction means configured for extracting from said received context information one or more commands and/or for extracting an information item from said context information,

wherein said one or more commands instruct to select said data record; (see *at least Fig. 2, paragraphs 24-29*) and

comparison means configured for comparing said information item with data items comprised by said data records and/or for comparing said information item with association information such that the selection is operable with comparison results. (see *at least Fig. 2, paragraphs 24-29*)

**Regarding claim 19:**

Fuzell-Casey teaches an apparatus according to claim 15 comprising: revocation means configured for revoking said provision of said selected data record by said radio frequency identification communication module in consequence of a signal generated by at least one means out of:

timer means configured to generate said signal in case a predefined interval in time has run down and/or in case a predefined moment in time has been exceeded; (see *at least Fig. 2, paragraphs 24-29*) and

detection means configured to detect whether said external entity has retrieved said selected data record provided as said identification information from said radio frequency identification communication module. (see *at least Fig. 2, paragraphs 24-29*)

**Regarding claim 20: Canceled**

Fuzell-Casey teaches a portable terminal according to claim 15 , wherein said identification means is a radio frequency identification (RFID) means. (see *at least Fig. 2, paragraphs 24-29*)

**Regarding claim 21: Canceled**

Fuzell-Casey teaches a portable terminal according to claim 15 wherein said identification means is visual encoding means. (see at least Fig. 2, paragraphs 24-29)

**Regarding claim 22:**

Fuzell-Casey teaches an apparatus according to claim 15 wherein said radio frequency identification communication module is operable with a reader mode and a transponder communication module is operable with said reader mode for acquiring context information, wherein said radio frequency identification communication module is operable with said transponder mode for providing said selected data record as said identification information. (see at least Fig. 2, paragraphs 24-29) wherein said radio

**Regarding claim 23:**

Fuzell-Casey teaches an apparatus according to claim 15 wherein at least one of said means is implemented on the basis of a code section, which is configured to perform a function of said means, when carried out by a processing means comprised by said apparatus. (see at least Fig. 2, paragraphs 24-29)

**Regarding claim 24: Canceled**

Fuzell-Casey teaches a system enabling for automated context information based selective data provision for identification means, comprising: a source providing context information; (see at least Fig. 2, paragraphs 24-29) a counterpart identification means adapted for acquiring identification information from said identification means; (see at least Fig. 2, paragraphs 24-29) and a portable terminal comprising: acquisition means adapted for wireless acquiring context information from said external

source; (see at least Fig. 2, paragraphs 24-29)

selection means adapted for selecting a data record out of a plurality of data records, wherein said plurality of data record is maintained by the portable terminal for selection;

(see at least Fig. 2, paragraphs 24-29) wherein said selecting of said data record is operable in accordance with said context information; and

configuration means adapted for preparing said selected data record for further processing; (see at least Fig. 2, paragraphs 24-29)

wherein said identification means is adapted for providing said selected data record as said identification information for being wirelessly retrievable. (see at least Fig. 2, paragraphs 24-29)

**Regarding claim 25:canceled**

Fuzell-Casey teaches a system according to claim 24, wherein said portable terminal is a portable terminal according to claim 15. (see at least Fig. 2, paragraphs 24-29)

**Regarding claim 26:Canceled**

Fuzell-Casey teaches a system according to claim 24 wherein said counterpart identification means is comprised by a point of sales, a ticket checkpoint or a gate entrance. (see at least Fig. 2, paragraphs 24-29)

**Regarding claim 27:Canceled**

Fuzell-Casey teaches a system according to claim 24 wherein said source is an identification means storing said context information. (see at least Fig. 2, paragraphs 24-29)

**Regarding claim 28:**

Fuzell-Casey teaches that for the method according to claim 1, wherein said context information includes at least one of location information, an interval in time, a current time, an instruction identifying a specific data record of said plurality of data records, and an identification of said external source. (see at least Fig. 2, paragraphs 24-29)

**Regarding claim 29:**

Fuzell Casey teaches that for the apparatus according to claim 15, wherein said context information includes at least one of location information, an interval in time, a current time, an instruction identifying a specific data record of said plurality of data records, and an identification of said external source. (see at least Fig. 2, paragraphs 24-29)

***Conclusion***

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ABDUL BASIT whose telephone number is 571-272-5506. The examiner can normally be reached on Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ab

/James P Trammell/  
Supervisory Patent Examiner, Art Unit 3694